

REMARKS/ARGUMENTS

By this Amendment, claims 18-31, 33-34, 36-39, 49-51, 61-62 are canceled, and claims 40-41, 43-48, 52-53, 55-60 are amended. Claims 40-48, 52-60 are pending. Support for the amendments to the claims can be found throughout the Specification as filed. No new matter has been added by these amendments.

Entry of this Amendment is proper under 37 C.F.R. §1.116 because the Amendment: (a) places the application into condition for allowance (for reasons discussed herein), (b) does not raise any new issues requiring further search and/or consideration (because the Amendment is directed to subject matter previously considered during prosecution), (c) does not present any additional claims without canceling a corresponding number of finally rejected claims, and (d) places the application into better form for appeal, should an appeal be necessary. Applicants respectfully request entry of the Amendment.

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

Claim Rejections under 35 USC 112 first paragraph:

The Examiner has rejected claims 49 and 61 as allegedly failing to comply with the written description requirement because they allegedly contain subject matter which was not described in the Specification. While not necessarily agreeing with the stated basis for the rejection, Applicants have canceled claims 49 and 61 by this Amendment to expedite prosecution of the instant application. Accordingly, the rejection of claims 49 and 61 as containing new matter is now moot, and withdrawal of the rejection is respectfully requested.

Claim Rejections under 35 USC 102(b)

Claims 31, 33 and 49 stand rejected under 35 USC 102 (b) as allegedly being anticipated by McLachlan (US Pat. No. 4,419,365). In an effort to expedite prosecution of the instant

application, Applicants have canceled claims 31, 33 and 49 by this Amendment. Accordingly, the rejection of claims 31, 33 and 49 under 35 USC 102 (b) is now moot, and withdrawal of the rejection is respectfully requested.

Claim Rejections under 35 USC 103(a)

Claims 31, 33, 34, 36-40, 49-52, 61 and 62 stand rejected under 35 USC 103(a) as being unpatentable over McLachlan (US Pat. No. 4,419,365) in combination with Elsberry (US Patent No. 5,846,220) or Xiaotao et al. (US Patent no 6,255,347). This rejection is respectfully traversed.

By this amendment, claims 31, 33-34, 36-39, 49-51, 61, and 62 have been canceled. In the Final Office Action of 12/8/2005, claims 41-48 and 53-60 were indicated as objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Claim 41, which was objected to, was dependent on claim 40, which was rejected. It was not clear why claim 40 was rejected, since claim 40 was drawn to a method of treatment of AD with a macrolide antibiotic, and the basis of the rejection is that the McLachlan patent teaches tetracycline. Tetracycline is not a macrolide. Presumably, this is an oversight, and claim 40 has been amended to incorporate all the limitations of rejected claim 31, along with the additional limitation that the antimicrobial is a macrolide. This claim is not anticipated by the prior art because the prior art doesn't teach macrolide antibiotics.

Likewise, claim 53 was objected to, and was dependent on claim 52, which was indicated as being rejected. It was not clear why claim 52 was rejected, since claim 52 was drawn to a method of treatment of AD with a macrolide antibiotic, and the basis of the rejection is that the McLachlan patent teaches tetracycline. Presumably, this is an oversight, and claim 52 has been amended to incorporate all the limitations of rejected claim 34, along with the additional limitation that the antimicrobial is a macrolide. This claim is not anticipated by the prior art because the prior art doesn't teach macrolide antibiotics.

Accordingly, the rejection over claims 31, 33, 34, 36-39, 49-51, 61, and 62 have been

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rendered moot by cancellation of the claims, and the rejection may be withdrawn. Claims 40 and 52 have been amended to incorporate all the limitations of claim 31 and 34, respectively, and are thus free of the cited art, and reconsideration and withdrawal of the rejection of claims 40 and 52 under 35 USC 103(a) is respectfully requested.

Conclusion

For at least the reasons set forth above, it is respectfully submitted that the above-identified application is in condition for allowance. Favorable reconsideration and prompt allowance of the claims are respectfully requested.

Should the Examiner believe that anything further is desirable in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned agent at the telephone number listed below.

Respectfully submitted,

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